

REMARKS

Upon entry of the present paper, Applicants will have elected, with traverse, Invention II (Group II) comprising claims 9-16. Claims 1-20 remain pending in the application.

In the Restriction Requirement, the claims were restricted to two inventions defined as follows.

- I. Claims 1-8 and 17-20, drawn to an apparatus, classified in class 68, subclass 12.21; and
- II. Claims 9-16, drawn to a method, classified in class 8, subclass 158.

The Examiner asserted that the inventions were related as process and apparatus for its practice, and that the inventions are distinct from each other under M.P.E.P. § 806.05(e) because "the process as claimed can be practiced by another and materially different apparatus" and "the apparatus as claimed can be used to practice another and materially different process."

Applicant respectfully traverse the above Restriction Requirement and submit that it is inappropriate. As set forth in M.P.E. P. § 803, the Examiner must, *inter alia*, set forth the existence of a "serious burden" if the restriction requirement were not required. However, the Examiner has not addressed the required issue of "serious burden." The Examiner has thus failed to provide an "appropriate explanation" of such burden, as set forth in M.P.E.P. § 803. That is, according to M.P.E.P. § 803, "an appropriate

"explanation" must be advanced by the Examiner as to the existence of a "serious burden" if the restriction requirement were not required.

While the Examiner has alleged a possible distinction between the two identified groups of the invention, Applicants respectfully submit that the Examiner has not shown that a concurrent examination of these groups would present a "serious burden" on the Examiner.

Applicants respectfully submit that no undue or serious burden would be presented in concurrently examining Groups I and II. Therefore, consistent with the office policy set forth in M.P.E.P. § 803, Applicants respectfully request that the Examiner reconsider and withdraw the restriction requirement in this application.

Applicants note that the Examiner required an election of one of five species (Figs. 3-7); however, since the Examiner required such election only upon the election of Group I, Applicants have not elected a species for examination herein, since Applicants have elected Group II.

For all of the above reasons, the Examiner's restriction is believed to be improper. Nevertheless, Applicants have elected, with traverse, the invention defined by Group II, in the event that the Examiner chooses not to reconsider and withdraw the restriction requirement.

Should the Examiner have any questions or comments regarding the present paper or this application, the Examiner is respectfully invited to contact the undersigned at the below-listed number.

Respectfully Submitted,
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